

# MAINE STATE LEGISLATURE

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April 29, 1974

Fred E. Holt, Director  
Lee M. Schepps, Assistant  
Spruce Budworm

Forestry - Conservation  
Attorney General

This is in response to your memorandum of April 17, 1974 asking whether or not the funds appropriated by Chapter 194 of the Private and Special Laws of 1973 could be expended for the purposes set forth therein (spruce budworm control), even if Federal funds do not become available.

Chapter 194 of the Private and Special Laws of 1973 (the "Act") appropriates \$595,450 for an emergency spruce budworm control project and/or research. The Act says that "the rest of the funds are to be supplied from the balance of funds in the spruce budworm account and the Federal Government." While the Legislature seems clearly to have expected some funds to be paid for the project by the Federal Government, it did not make the payment of federal funds a condition precedent to the expenditure of State funds for the project.

In at least one other Private and Special Act passed at the same Special Session (Chapter 223 of the Private and Special Laws of 1973), the Legislature appropriated funds for a grant program and specifically restricted the use of the appropriated funds to those situations where the funds are "matched" by certain municipal agencies. The failure of the Legislature to include a similar express limitation in the Act seems to lead to the conclusion that the funds appropriated by the Act may be expended by the Bureau of Forestry for the purposes set forth in the Act whether or not additional funds for those same purposes are supplied by the Federal Government.

Because of the obvious expectation of Federal funds, we would point out that there may be policy implications which you may wish to consider in deciding whether or not you should spend state funds without Federal participation. Our conclusion is merely that there is no legal bar to doing so.

I hope this is responsive to your request. Please let me know if we can be of further assistance.

**AN INFORMAL OPINION**

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LEE M. SCHEPPS  
Assistant Attorney General

LMS/mfe/f